

JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JOHN V. MAGGI

DEFENDANTS

NELSON, WATSON & ASSOCIATES, LLC

(b) County of Residence of First Listed Plaintiff _____

County of Residence of First Listed Defendant _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. Section 1692Brief description of cause:
Fair Debt Collection Practices Act**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

Explanation:

DATE

5/17/10

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 656 Grage Lane, North Wales, PA 19454

Address of Defendant: 80 Merrimack St. Lower Level, Haverhill, MA 01830

Place of Accident, Incident or Transaction: 656 Grage Lane, North Wales, PA 19454
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases 15 U.S.C §1692
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Ther Kimmel, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 5/17/10

Craig Ther Kimmel
Attorney-at-Law

57100
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 5/17/10

Craig Ther Kimmel
Attorney-at-Law

57100
Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

John V. Maggi

v.

Nelson, Watson + Assoc.
LLC

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>5/17/10</u>	<u>Craig Thur-Kimmel</u>	<u>John V. Maggi</u>
Date	Attorney-at-law	Attorney for
<u>(215) 540-8888</u>	<u>800-863-1689</u>	<u>Kimmel@creditlaw.com</u>
Telephone	FAX Number	E-Mail Address

(Unlawful Debt Collection Practices)

PLAINTIFF'S COMPLAINT

1 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

2 5. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and
3 2202.

4 **PARTIES**

5 6. Plaintiff is a natural person residing in North Wales, Pennsylvania.

6 7. Plaintiff is a "consumer" as that term is defined by 15 U.S.C. §
7 1692a(3).

8 8. Defendant is a debt collector with its office located at 80 Merrimack
9 Street, Lower Level, in Haverhill, Massachusetts, 01830.

10 9. Defendant is a "debt collector" as that term is defined by 15 U.S.C. §
11 1692a(6), and sought to collect a consumer debt from Plaintiff.

12 10. Defendant acted through his agents, employees, officers, members,
13 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
14 representatives, and insurers.

15
16 **PRELIMINARY STATEMENT**

17 11. The Fair Debt Collection Practices Act ("FDCPA") is a
18 comprehensive statute which prohibits a catalog of activities in connection with the
19 collection of debts by third parties. See 15 U.S.C. § 1692 *et seq.* The FDCPA
20 imposes civil liability on any person or entity that violates its provisions, and
21 establishes general standards of debt collector conduct, defines abuse, and provides
22 for specific consumer rights. 15 U.S.C. § 1692k. The operative provisions of the
23 FDCPA declare certain rights to be provided to or claimed by debtors, forbid
24
25

1 deceitful and misleading practices, prohibit harassing and abusive tactics, and
2 proscribe unfair or unconscionable conduct, both generally and in a specific list of
3 disapproved practices.
4

5 12. In particular, the FDCPA broadly enumerates several practices
6 considered contrary to its stated purpose, and forbids debt collectors from taking
7 such action. The substantive heart of the FDCPA lies in three broad prohibitions.
8 First, a “debt collector may not engage in any conduct the natural consequence of
9 which is to harass, oppress, or abuse any person in connection with the collection
10 of a debt.” 15 U.S.C. § 1692d. Second, a “debt collector may not use any false,
11 deceptive, or misleading representation or means in connection with the collection
12 of any debt.” 15 U.S.C. § 1692e. And third, a “debt collector may not use unfair
13 or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. §
14 1692f. The FDCPA is designed to protect consumers from unscrupulous
15 collectors, whether or not there exists a valid debt, broadly prohibits unfair or
16 unconscionable collection methods, conduct which harasses, oppresses or abuses
17 any debtor, and any false, deceptive or misleading statements in connection with
18 the collection of a debt.
19
20
21
22

23 13. In enacting the FDCPA, the United States Congress found that
24 “[t]here is abundant evidence of the use of abusive, deceptive, and unfair debt
25 collection practices by many debt collectors,” which “contribute to the number of

1 personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of
2 individual privacy.” 15 U.S.C. § 1692a. Congress additionally found existing
3 laws and procedures for redressing debt collection injuries to be inadequate to
4 protect consumers. 15 U.S.C. § 1692b.

6 14. Congress enacted the FDCPA to regulate the collection of consumer
7 debts by debt collectors. The express purposes of the FDCPA are to “eliminate
8 abusive debt collection practices by debt collectors, to insure that debt collectors
9 who refrain from using abusive debt collection practices are not competitively
10 disadvantaged, and to promote consistent State action to protect consumers against
11 debt collection abuses.” 15 U.S.C. § 1692e.
12
13
14

15 **FACTUAL ALLEGATIONS**

16 15. Defendant was hired to collect an alleged debt owed by Gotham
17 Capital, LLC to Capital One Services, LLC.

18 16. Defendant, however, sought to collect the alleged debt from Plaintiff,
19 John Maggi, instead of Gotham Capital, LLC.
20

21 17. Specifically, on January 5, 2010, Defendant began contacting
22 Plaintiff on his home and cellular telephones in its attempts to collect the debt
23 alleged to be owed by Gotham Capital, LLC.

24 18. Plaintiff instructed Defendant to cease all calls to him.

25 19. Defendant, however, ignored Plaintiff’s instructions and continued to

1 contact him on his home telephone.

2 20. In its initial call to Plaintiff, Defendant accused Plaintiff of
3 committing a criminal offense, Credit Card Fraud.

4 21. Defendant contacted Plaintiff on his cellular telephone on January 5,
5 2010; January 20, 2010; January 21, 2010; and January 26, 2010, making multiple
6 calls to Plaintiff on each day.

7 22. Additionally, between January 6, 2010, and January 15, 2010,
8 Defendant contacted Plaintiff on his home telephone, again making multiple calls
9 to Plaintiff on each day that it called him.

10 23. In addition to making repeated calls to Plaintiff on his home and
11 cellular telephones, on or about January 5, 2010, Defendant sent correspondence
12 to Plaintiff at his personal residence in its attempt to collect the debt allegedly
13 owed by Gotham Capital, LLC. See Exhibit A, the January 5, 2010, letter.

14 24. The place of business for Gotham Capital, LLC is: 259 N. Radnor-
15 Chester Road, Suite 210, Radnor, Pennsylvania 19087.

16 25. However, Defendant sent its letter to 656 Gage Lane, North Wales,
17 Pennsylvania 19454, which is Plaintiff's home address.

18 26. Further, Defendant used its leverage inappropriately to place the
19 business debt on Plaintiff's credit report. See Exhibit B, Plaintiff's credit report.

20 27. Within five (5) days of the January 5, 2010, letter, Defendant failed to
21 send correspondence to Plaintiff advising him of his rights to dispute the debt or to
22 request validation of the debt, as required under § 1692g of the FDCPA.

23 28. Plaintiff is not personally liable for the debt allegedly owed by
24 Gotham Capital, LLC.

25 29. Notwithstanding this fact, Defendant still attempted to collect the

1 alleged debt from Plaintiff.

2 30. Despite the possible commercial nature of the debt, Defendant's
3 actions transformed the debt into that which qualifies as consumer debt under the
4 FDCPA when Defendant called Plaintiff numerous times at his residence and
5 threatened him in an attempt to collect the alleged debt.

6 CONSTRUCTION OF APPLICABLE LAW

7 31. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry,
8 deLaunay & Durand, 103 F.3d 1232 (5th Cir. 1997). "Because the Act imposes
9 strict liability, a consumer need not show intentional conduct by the debt collector
10 to be entitled to damages." Russell v. Equifax A.R.S., 74 F. 3d 30 (2d Cir. 1996);
11 see also Gearing v. Check Brokerage Corp., 233 F.3d 469 (7th Cir. 2000) (holding
12 unintentional misrepresentation of debt collector's legal status violated FDCPA);
13 Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).

14 32. The FDCPA is a remedial statute, and therefore must be construed
15 liberally in favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235
16 (W.D. Wash. 2006). The remedial nature of the FDCPA requires that courts
17 interpret it liberally. Clark v. Capital Credit & Collection Services, Inc., 460 F. 3d
18 1162 (9th Cir. 2006). "Because the FDCPA, like the Truth in Lending Act (TILA)
19 15 U.S.C §1601 *et seq.*, is a remedial statute, it should be construed liberally in
20 favor of the consumer." Johnson v. Riddle, 305 F. 3d 1107 (10th Cir. 2002).

21 33. The FDCPA is to be interpreted in accordance with the "least
22 sophisticated" consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168
23 (11th Cir. 1985); Graziano v. Harrison, 950 F. 2d 107 (3rd Cir. 1991); Swanson v.
24 Southern Oregon Credit Service, Inc., 869 F.2d 1222 (9th Cir. 1988). The FDCPA
25 was not "made for the protection of experts, but for the public - that vast multitude

1 which includes the ignorant, the unthinking, and the credulous, and the fact that a
 2 false statement may be obviously false to those who are trained and experienced
 3 does not change its character, nor take away its power to deceive others less
 4 experienced.” Id. The least sophisticated consumer standard serves a dual
 5 purpose in that it ensures protection of all consumers, even naive and trusting,
 6 against deceptive collection practices, and protects collectors against liability for
 7 bizarre or idiosyncratic interpretations of collection notices. Clomon, 988 F. 2d at
 8 1318.

9 **COUNT I**
 10 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**
 11 **ACT**

12 34. In its actions to collect a disputed debt, Defendant violated the
 13 FDCPA in one or more of the following ways:

- 14 a. Harassing, oppressing or abusing Plaintiff in connection with
 15 the collection of a debt, in violation of 15 U.S.C. § 1692d;
- 16 b. Causing a telephone to ring or engaging Plaintiff in telephone
 17 conversation repeatedly or continuously with intent to annoy,
 18 abuse, or harass Plaintiff at the called number, in violation of
 19 15 U.S.C. § 1692d(5);
- 20 c. Using false, deceptive or misleading representations or means
 21 in connection with the collection of a debt, in violation of 15
 22 U.S.C. § 1692e;
- 23 d. Falsely representing the character, amount, or legal status of
 24 any debt, in violation of 15 U.S.C. § 1692e(2);

- e. Falsely representing or implicating that Plaintiff committed a crime or other conduct in order to disgrace Plaintiff, in violation of 15 U.S.C. § 1692e(7);
- f. Communicating to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed, in violation of 15 U.S.C. § 1692e(8);
- g. Using false representations or deceptive means to collect or attempt to collect a debt, in violation of 15 U.S.C. § 1692e(10);
- h. Using unfair or unconscionable means to collect or attempt to collect any debt, in violation of 15 U.S.C. § 1692f;
- i. Collecting an amount not expressly authorized by an agreement creating the debt, in violation of 15 U.S.C. § 1692f(1);
- j. Failure to send Plaintiff written notification advising him of his rights to dispute the debt or request verification of the debt, in violation of 15 U.S.C. § 1692(g)(a); and
- k. By acting in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the FDCPA.

1 WHEREFORE, Plaintiff, JOHN V. MAGGI, respectfully prays for a judgment
2 as follows:

- 3 a. All actual compensatory damages suffered pursuant to 15
4 U.S.C. § 1692k(a)(1);
5
6 b. Statutory damages of \$1,000.00 for each violation of the
7 FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
8
9 c. All reasonable attorneys' fees, witness fees, court costs and
10 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
11 § 1693k(a)(3); and
12
13 d. Any other relief deemed appropriate by this Honorable Court.

14 **DEMAND FOR JURY TRIAL**

15 PLEASE TAKE NOTICE that Plaintiff, JOHN V. MAGGI, demands a jury
16 trial in this case:

17 RESPECTFULLY SUBMITTED,

18 DATED: May 17, 2010

KIMMEL & SILVERMAN, P.C..

19 By: /s/ Craig Thor Kimmel

Craig Thor Kimmel

20 Attorney ID # 57100

21 Kimmel & Silverman, P.C.

30 E. Butler Pike

22 Ambler, PA 19002

23 Phone: (215) 540-8888

24 Fax: (215) 540-8817

Email: kimmel@creditlaw.com

02/03/2010 16:42 2156992132

JV MAGGI

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PO Box 1299
Haverhill MA 01831
RETURN SERVICE REQUESTED

Nelson, Watson & Associates, LLC

80 Merrimack Street Lower Level
Haverhill, MA 01830
Phone: 888-542-6928 • Fax: (978) 469-9046

January 5, 2010

Creditor: Capital One Services LLC - CC
Acct #: 705151983
Balance Due as of 01/05/10: \$23937.98

CAPC2444 - A20 - 1300
Gotham Capital Llc
656 Gage Ln
North Wales PA 19454-2737



Nelson, Watson & Associates, LLC
PO Box 1299
Haverhill MA 01831-1799



*** Detach Upper Portion and Return with Payment ***

1300-NWAA2002-TYCEB432B7

Creditor: Capital One Services LLC - CC
Acct No.: 705151983

Principal: \$23845.03
Interest: \$92.95
Total Balance as of 01/05/10: \$23937.98

The above referenced account has been placed with this office for collection. Remittance of the payment in full is hereby requested.

To obtain your most current balance information, please call our office at 888-542-6928. For your security, please make all payments payable to Nelson, Watson & Associates, LLC.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

Please call Monday through Thursday 8:30am to 9pm EST, Friday 8:30am to 5pm, or Saturday 9am to 1pm EST.

This communication is from a debt collector. This is an attempt to collect a debt. All information obtained will be used for that purpose.

Sincerely,
Consumer Services Department

Please Note: When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. Funds may be withdrawn from your account as soon as the same day we receive the check and you will not receive your check back from your financial institution.

IF YOU WISH TO PAY BY VISA OR MASTERCARD, (CIRCLE ONE) FILL IN THE INFORMATION
BELOW AND RETURN THE ENTIRE LETTER TO US IN THE ENCLOSED ENVELOPE.



\$

Account Number

Payment Amount

Expire Date

Card Holder Name

Signature of Card Holder



Estimated date that this item will be removed: 06/2016

EXHIBIT
B